

Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 279

HOUSE BILL 2610

AN ACT

AMENDING SECTIONS 8-501 AND 8-507, ARIZONA REVISED STATUTES; RELATING TO
CHILD WELFARE AND PLACEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 8-501, Arizona Revised Statutes, is amended to read:

8-501. Definitions

A. In this article, unless the context otherwise requires:

1. "Child welfare agency" or "agency":

(a) Means:

(i) Any agency or institution maintained by a person, firm, corporation, association or organization to receive children for care and maintenance or for twenty-four hour social, emotional or educational supervised care or who have been adjudicated as a delinquent or dependent child.

(ii) Any institution that provides care for unmarried mothers and their children.

(iii) Any agency maintained by the state, or a political subdivision thereof, person, firm, corporation, association, or organization to place children or unmarried mothers in a foster home.

(b) Does not include state operated institutions or facilities, detention facilities for children established by law, ~~camps operating less than twelve months per year, boarding schools which board children on a regular school year basis and where the child is off the grounds for at least sixty days or~~ health care institutions which ~~THAT~~ are licensed by the department of health services pursuant to title 36, chapter 4 OR PRIVATE AGENCIES THAT EXCLUSIVELY PROVIDE CHILDREN WITH SOCIAL ENRICHMENT OR RECREATIONAL OPPORTUNITIES AND THAT DO NOT USE RESTRICTIVE BEHAVIOR MANAGEMENT TECHNIQUES.

2. "Division" or "department" means the department of economic security.

3. "Foster child" means a child placed in a foster home or child welfare agency.

4. "Foster home" means a home maintained by any individual or individuals having the care or control of minor children, other than those related to each other by blood or marriage, or related to such individuals, or who are legal wards of such individuals.

5. "Foster parent" means any individual or individuals maintaining a foster home.

6. "Group foster home" means a licensed regular or special foster home suitable for placement of more than five minor children but not more than ten minor children.

7. "Out-of-home placement" means the placing of a child in the custody of an individual or agency other than with the child's parent or legal guardian and includes placement in temporary custody pursuant to section 8-821, subsection A or B, voluntary placement pursuant to section 8-806 or placement due to dependency actions.

8. "Parent" means the natural or adoptive mother or father of a child.

1 9. "Reason for leaving care" means one of the following:

- 2 (a) Reunification with parent or primary caretaker.
- 3 (b) Living with other relative.
- 4 (c) Adoption by relative.
- 5 (d) Adoption by foster parent.
- 6 (e) Adoption by another person.
- 7 (f) Age of majority.
- 8 (g) Guardianship by relative.
- 9 (h) Guardianship by another person.
- 10 (i) Transfer to another agency.
- 11 (j) Runaway.
- 12 (k) Death.

13 10. "Receiving foster home" means a licensed foster home suitable for
14 immediate placement of children when taken into custody or pending medical
15 examination and court disposition.

16 11. "Regular foster home" means a licensed foster home suitable for
17 placement of not more than five minor children.

18 12. "Relative" means a grandparent, great grandparent, brother or
19 sister of whole or half blood, aunt, uncle or first cousin.

20 13. "RESTRICTIVE BEHAVIOR MANAGEMENT" MEANS AN INTERVENTION OR
21 PROCEDURE THAT ATTEMPTS TO GUIDE, REDIRECT, MODIFY OR MANAGE BEHAVIOR THROUGH
22 THE USE OF ANY OF THE FOLLOWING:

23 (a) PHYSICAL FORCE TO CAUSE A CHILD TO COMPLY WITH A DIRECTIVE.
24 PHYSICAL FORCE DOES NOT INCLUDE PHYSICAL ESCORT. FOR THE PURPOSES OF THIS
25 SUBDIVISION, "PHYSICAL ESCORT" MEANS TEMPORARILY TOUCHING OR HOLDING A
26 CHILD'S HAND, WRIST, ARM, SHOULDER OR BACK TO INDUCE THE CHILD TO WALK TO A
27 SAFE LOCATION.

28 (b) A DEVICE, ACTION OR MEDICATION TO RESTRICT THE MOVEMENT OR NORMAL
29 FUNCTION OF A CHILD IN ORDER TO CONTROL OR CHANGE THE CHILD'S BEHAVIOR AND
30 THAT INCLUDES:

31 (i) CHEMICAL RESTRAINT. FOR THE PURPOSES OF THIS ITEM, "CHEMICAL
32 RESTRAINT" MEANS THE USE OF ANY PSYCHOACTIVE MEDICATION AS A RESTRAINT TO
33 CONTROL THE CHILD'S BEHAVIOR OR TO RESTRICT THE CHILD'S FREEDOM OF MOVEMENT
34 AND THAT IS NOT A STANDARD TREATMENT FOR THE CHILD'S MEDICAL OR PSYCHIATRIC
35 CONDITION.

36 (ii) MECHANICAL RESTRAINT. FOR THE PURPOSES OF THIS ITEM, "MECHANICAL
37 RESTRAINT" MEANS THE USE OF ANY PHYSICAL DEVICE TO LIMIT A CHILD'S MOVEMENT
38 AND TO PREVENT THE CHILD FROM CAUSING HARM TO SELF OR TO OTHERS. MECHANICAL
39 RESTRAINT DOES NOT INCLUDE DEVICES SUCH AS ORTHOPEDICALLY PRESCRIBED DEVICES,
40 SURGICAL DRESSINGS OR BANDAGES, PROTECTIVE HELMETS OR ANY OTHER METHOD THAT
41 INVOLVES THE PHYSICAL HOLDING OF A CHILD TO CONDUCT A ROUTINE PHYSICAL
42 EXAMINATION OR TEST OR TO PROTECT THE CHILD FROM FALLING OUT OF BED OR TO
43 PERMIT THE CHILD TO PARTICIPATE IN ACTIVITIES IN ORDER TO REDUCE THE RISK OF
44 PHYSICAL HARM TO THE CHILD.

(iii) PHYSICAL RESTRAINT. FOR THE PURPOSES OF THIS ITEM, "PHYSICAL RESTRAINT" MEANS APPLYING PHYSICAL FORCE TO REDUCE OR RESTRICT A CHILD'S ABILITY TO FREELY MOVE THE CHILD'S ARMS, LEGS OR HEAD. PHYSICAL RESTRAINT DOES NOT INCLUDE TEMPORARILY HOLDING A CHILD TO PERMIT THE CHILD TO PARTICIPATE IN ACTIVITIES OF DAILY LIVING IF THIS HOLDING DOES NOT INVOLVE THE RISK OF PHYSICAL HARM TO THE CHILD.

(iv) SECLUSION. FOR THE PURPOSES OF THIS ITEM, "SECLUSION" MEANS PLACING A CHILD AGAINST THE CHILD'S WILL IN A ROOM IN WHICH THE CHILD IS UNABLE TO OPEN THE DOOR IN ORDER TO PREVENT THE CHILD FROM DOING HARM TO SELF OR OTHERS.

~~13-~~ 14. "Special foster home" means a licensed foster home capable of handling not more than five minor children who require special care for physical, mental or emotional reasons or WHO have been adjudicated delinquent. Special foster home includes any home handling foster children aged twelve through seventeen.

B. A foster home or any classification of foster home defined in subsection A of this section includes a home having the care of persons who are under twenty-one years of age and the cost of whose care is provided pursuant to section 46-134, subsection A, paragraph 14.

Sec. 2. Section 8-507, Arizona Revised Statutes, is amended to read:

8-507. Operation without license

A. When the division has reason to believe that an agency or foster home is being conducted or maintained without a license, it shall make an investigation, and, if necessary the division shall take action to prevent such continued operation.

B. IF AN AGENCY PROVIDES TREATMENT OR PERMITS RESTRICTIVE BEHAVIOR TECHNIQUES TO BE USED, THE AGENCY SHALL OBTAIN A LICENSE ISSUED BY THE DEPARTMENT OF HEALTH SERVICES PURSUANT TO TITLE 36, CHAPTER 4 OR A CHILD WELFARE AGENCY LICENSE ISSUED BY THE DEPARTMENT OF ECONOMIC SECURITY PURSUANT TO THIS CHAPTER.

~~B-~~ C. The superior court shall have jurisdiction to issue an injunction restraining the operation of a child welfare agency or foster home without a license.

APPROVED BY THE GOVERNOR MAY 21, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 22, 2002.

FAILED

Passed the House April 8, 2002,

by the following vote: 29 Ayes,

21 Nays, 10 Not Voting

Speaker of the House

Sporman L. Moore
Chief Clerk of the House

Passed the Senate _____, 20____,

by the following vote: _____ Ayes,

Nays, _____ Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2610

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

ON RECONSIDERATION

Passed the House April 9, 2002,

by the following vote: 33 Ayes,

15 Nays, 12 Not Voting

Jake Flake
Speaker of the House
Pro Tempore

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 7, 2002

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Randall Strickland
President of the Senate

Charmian Beallington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of _____,

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2610

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

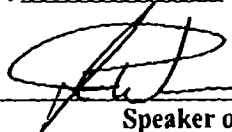
Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 16, 2002,

by the following vote: 47 Ayes,

10 Nays, 3 Not Voting



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of May, 2002

at 3:00 o'clock P M.



Secretary to the Governor

Approved this 21 day of

May, 2002,

at 12:46 o'clock P M.



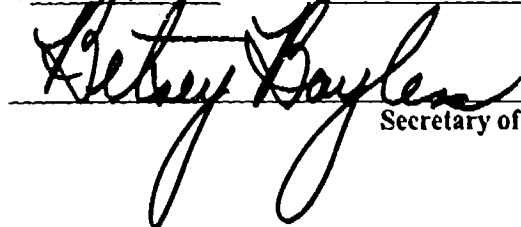
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 22 day of May, 2002

at 12:13 o'clock P M.



Secretary of State

H.B. 2610